### Documenting non-taxable sales Recordkeeping requirements

### Sec. 16-350. Recordkeeping requirements.

- (a) It shall be the duty of every person subject to the tax imposed by this Chapter to keep and preserve suitable records and such other books and accounts as may be necessary to determine the amount of tax for which he is liable under this Chapter. The books and records must contain, at a minimum, such detail and summary information as may be required by Regulation; or when records are maintained within an electronic data processing (EDP) system, the requirements established by the Arizona Department of Revenue for privilege tax filings will be accepted. It shall be the duty of every person to keep and preserve such books and records for a period equal to the applicable limitation period for assessment of tax, and all such books and records shall be open for inspection by the Tax Collector during any business day.
- (b) The Tax Collector may direct, by letter, a specific taxpayer to keep specific other books, records, and documents. Such letter directive shall apply:
  - (1) Only for future reporting periods; and
  - (2) Only by express determination of the Tax Collector that such specific recordkeeping is necessary due to the inability of the City to conduct an adequate examination of the past activities of the taxpayer, which inability resulted from inaccurate or inadequate books, records, or documentation maintained by the taxpayer.

# Sec. 16-360. Recordkeeping—Claim of exclusion, exemption, deduction, or credit; documentation; liability.

- (a) All deductions, exclusions, exemptions, and credits provided in this Chapter are conditional upon adequate proof and documentation of such as may be required either by this Chapter or Regulation.
- (b) Any person who claims and receives an exemption, deduction, exclusion, or credit to which he is not entitled under this Chapter, shall be subject to, liable for, and pay the tax on the transaction as if the vendor subject to the tax had passed the burden of the payment of the tax to the person wrongfully claiming the exemption. A person who wrongfully claimed such exemption shall be treated as if he is delinquent in the payment of the tax and shall be subject to interest and penalties upon such delinquency. However, if the tax is collected from the vendor on such transaction it shall not again be collected from the person claiming the exemption, or if collected from the person claiming the exemption it shall not also be collected from the vendor.

#### Sec. 16-370. Inadequate or unsuitable records.

In the event the records provided by the taxpayer are considered by the Tax Collector to be inadequate or unsuitable to determine the amount of the tax for which such taxpayer is liable under the provisions of this Chapter, it is the responsibility of the taxpayer either:

- (a) To provide such other records required by this Chapter or Regulation; or
- (b) To correct or to reconstruct his records, to the satisfaction of the Tax Collector.

#### Reg. 16-350.1. Recordkeeping: income.

The minimum records required for persons having gross income subject to, or exempt or excluded from, tax by this Chapter must show:

- (a) The gross income of the taxpayer attributable to any activity occurring in whole or in part in the City.
- (b) The gross income taxable under this Chapter, divided into categories as stated in the official City tax return.
- (c) The gross income subject to Arizona Transaction Privilege Taxes, divided into categories as stated in the official State tax return.
- (d) The gross income claimed to be exempt, and with respect to each activity or transaction so claimed:
- (1) If the transaction is claimed to be exempt as a sale for resale or as a sale, rental, lease, or license for use of rental equipment:
- (A) The City Privilege License number and State Transaction Privilege Tax License number of the customer (or the equivalent city, if applicable, and State tax numbers of the city and State where the customer resides), and
  - (B) The name, business address, and business activity of the customer, and
- (C) Evidence sufficient to persuade a reasonably prudent businessman that the transaction is believed to be in good faith a purchase for resale, or a purchase, rental, lease, or license for use of rental equipment, by the vendee in the ordinary and regular course of his business activity, as provided by Regulation.
  - (2) If the transaction is claimed to be exempt for any other reason:
    - (A) The name, business address, and business activity of the customer, and
    - (B) Evidence which would establish the applicability of the exemption to a

reasonably prudent businessman acting in good faith. Ordinary business documentation which would reasonably indicate the applicability of an exemption shall be sufficient to relieve the person on whom the tax would otherwise be imposed from liability therein, if he acts in good faith as provided by Regulation.

- (e) With respect to those allowed deductions or exclusions for tax collected or charges for delivery or other direct customer services, where applicable, evidence that the deductible income has been separately stated and shown on the records of the taxpayer and on invoices or receipts provided to the customer. All other deductions, exemptions, and exclusions shall be separately shown and substantiated.
- (f) With respect to special classes and activities, such other books, records, and documentation as the Tax Collector, by regulation, shall deem necessary for specific classes of taxpayer by reason of the specialized business activity of any such class.
- (g) In all cases, the books and records of the taxpayer shall indicate both individual transaction amounts and totals for each reporting period for each category of taxable, exempt, and excluded income defined by this Chapter.

### Reg. 16-350.2. Recordkeeping: expenditures.

The minimum records required for persons having expenditures, costs, purchases and rental or lease or license expenses subject to, or exempt or excluded from, tax by this Chapter are:

- (a) The total price of all goods acquired for use or storage in the City.
- (b) The date of acquisition and the name and business address of the seller or lessor of all goods acquired for use or storage in the City.
- (c) Documentation of taxes, freight, and direct customer service labor separately charged and paid for each purchase, rental, lease, or license.
- (d) The gross price of each acquisition claimed as exempt from tax, and with respect to each transaction so claimed, sufficient evidence to satisfy the Tax Collector that the exemption claimed is applicable.
- (e) As applicable to each taxpayer, documentation sufficient to the Tax Collector, so that he may ascertain:
- (1) All construction expenditures and all Privilege and Use Taxes claimed paid, relating to owner-builders and speculative builders.
- (2) Disbursement of collected gratuities and related payroll information required of restaurants.
  - (3) (Reserved)

- (A) (Reserved)
- (B) (Reserved)
- (4) The validity of any claims of proof of exemption, as provided by Regulation.
- (5) A claimed alternative prior value for reconstruction.
- (6) All claimed exemptions to the Use Tax imposed by Article VI of this Chapter.
- (7) Costs used to compute the "computed charge" claimed for retail service and repair.
- (8) (Reserved)
- (9) (Reserved)
- (f) Any additional documentation as the Tax Collector, by Regulation, shall deem necessary for any specific class of taxpayer by reason of the specialized business activity of specific exemptions afforded to that class of taxpayer.
- (g) In all cases, the books and records of the taxpayer shall indicate both individual transaction amounts and totals for each reporting period for each category of taxable, exempt, and excluded expenditures as defined by this Chapter.

#### Reg. 16-350.3. Recordkeeping: out-of-City and out-of-State sales.

- (a) <u>Out-of-City sales</u>. Any person engaging or continuing in a business who claims out-of-City sales shall maintain and keep accounting records or books indicating separately the gross income from the sales of tangible personal property from such out-of-City branches or locations.
- (b) <u>Out-of-State sales</u>. Persons engaged in a business claiming out-of-State sales shall maintain accounting records or books indicating for each out-of-State sale the following documentation:
  - (1) Documentation of location of the buyer at the time of order placement; and
- (2) Documentation of residency of the buyer, determined in the manner one determines if a person "resides within the City"; and
- (3) Shipping, delivery, or freight documents showing where the buyer took delivery; and
- (4) Documentation of intended location of use or storage of the tangible personal property sold to such buyer.

# Reg. 16-360.1. Proof of exemption: sale for resale; sale, rental, lease, or license of rental equipment.

A claim of purchase for resale or of purchase, rental, lease, or license for rent, lease, or license is valid only if the evidence is sufficient to persuade a reasonably prudent businessman that the particular item is being acquired for resale or for rental, lease, or license in the ordinary course of business. The fact that the acquiring person possesses a Privilege License number, and makes a verbal claim of "sale for resale or lease" or "lease for re-lease" does not meet this burden and is insufficient to justify an exemption. The "reasonable evidence" must be evidence which exists objectively, and not merely in the mind of the vendor, that the property being acquired is normally sold, rented, leased, or licensed by the acquiring person in the ordinary course of business. Failure to obtain such reasonable evidence at the time of the transaction will be a basis for disallowance of any claimed deduction on returns filed for such transactions.

#### Reg. 16-360.2. Proof of exemption: exemption certificate.

For the purpose of proof of exemption, in transactions other than those in which the proof is set by standard documentation as detailed in Regulations 16-350.1 and 16-360.1, the minimum acceptable proof and documentation for each transaction shall be the completion, at the time of the transaction, in all material respects, of a certificate containing all the information set forth below. For the purpose of validating the vendor's claim of exemption, such certificate is sufficient if executed by any person with apparent authority to act for the customer, and the information provided validates the claim.

# EXEMPTION CERTIFICATE INVALID UNLESS COMPLETED IN FULL

		<u> </u>
Sales Invoice No.		_
Customer's Exemption Claim		
City of Tempe Privilege License (S	Sales) Tax	
Customer's Business Name:		
Customer's Business Address:		
Specific Business Activity:		
(e.g., if retailer, lessor, or manufacturer,	, specify items leased, solo	d or made, i.e., cars, computers,
clothes, etc.)		
Customer's License Nos.	City:	State:
ITEMS CLAIMED AS EXEMPT FRO	OM TAX	
: All Items on This Invoice	or Purchase Order.	
or		
: Only Those Items marked	l with An "E".	
REASON FOR CLAIMED EXEMPTI	ON:	
: The items claimed as exempt are customer in the normal course of its bus or		censed by the above named
: The items claimed as exempt are following specific reason(s):	e exempt from the City of	Tempe Privilege Tax for the
CUST I certify that the above information is as am authorized by the Customer above to its behalf. I further understand that the exemption is a Class One Misdemeanor	o acquire the items claime making of a false or fraud	nformation and belief, and that I ed as exempt on a tax-free basis or lulent claim to obtain a tax
Signature	Da	ate
Print Name		
Title		